

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6202 OF 2006

Suresh Gulabrao Kawade and ors. .. Petitioners
Vs
Popat Haribhau Makhare, .. Respondent
Mr P.M.Gore, for the petitioners.

CORAM : D.B.BHOSALE, J.
DATE : 19.09.2006

PC:

1. Heard the learned counsel for the petitioners.
2. This writ petition is directed against the concurrent findings recorded by the courts below rejecting the petitioners' prayer for temporary injunction restraining the respondent from obstructing them from using the approach way. It appears that the Court Commissioner was appointed and he had given a report adverse to the petitioners. Relying on that and the other material placed on record, both the courts below have recorded a finding of fact that the suit way does not exist and that the easementary right of the petitioners will be considered at the stage of final hearing of the suit. Considering that there are concurrent findings recorded by the Courts below and as I find that there is sufficient material on record to sustain those findings and considering

the extremely limited jurisdiction of

this Court under Article 227 of the Constitution of India to disturb the finding of facts the present writ petition cannot be entertained and is dismissed as such. However, looking to the facts and circumstances of the case, the trial Court shall endeavour to dispose of the suit as expeditiously as possible and in any case within one year from the date of receipt of this order. The trial Court shall decide the suit on merits in accordance with law and without being influenced by the observations made in the present proceedings.

(D.B.BHOSALE, J.)